

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RASHOD BROWN,

Petitioner,

Civil No. 2:14-cv-10243
Hon. Gershwin A. Drain

v.

THOMAS MACKIE,

Respondent.

**ORDER GRANTING PETITIONER’S MOTION TO FILE AN AMENDED
OR SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF
HABEAS CORPUS [Dkt. No. 12]**

Petitioner filed this habeas petition under 28 U.S.C. § 2254 challenging his state court conviction. Respondent filed its responsive pleading on May 23, 2016, and Petitioner filed a reply brief on July 13, 2016. Presently before the Court is Petitioner’s motion seeking leave to file a supplemental or amended brief in support of his petition. Petitioner asserts his family has retained counsel for him who intends to file a supplemental or amended brief in support of his habeas petition by December 31, 2016.

A party may amend his pleading “once as a matter of course before being served with a responsive pleading.” FED. R. CIV. P. 15(a)(1)(A). “In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave.” FED. R. CIV. P. 15(a)(2). For the reasons stated in the motion, the

Court will grant Petitioner's request, and it will give Petitioner until December 31, 2016, to file a supplemental or amended brief in support of his petition.

Nothing in this order should be construed as allowing Petitioner to raise new claims not presented in the original petition. Petitioner should be mindful that under Federal Rule of Civil Procedure 15, an amended pleading "relates back" to the original pleading only if the amended claims are tied to the "same core of operative facts" as alleged in the original petition. See *Mayle v. Felix*, 545 U.S. 644, 664 (2005). "An amended habeas petition . . . does not relate back (and thereby escape AEDPA's one-year time limit) when it asserts a new ground for relief supported by facts that differ in both time and type from those the original pleading set forth." *Id.* at 650.

Respondent may file a reply brief to any supplemental brief filed by Petitioner within 45 days of service.

SO ORDERED.

/s/Gershwin A Drain

Gershwin A. Drain

United States District Court Judge

Dated: October 27, 2016

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, October 27, 2016, by electronic and/or ordinary mail.

/s/Tanya Bankston

Case Manager, (313) 234-5213